

Senate Bill No. 1027

Passed the Senate August 4, 2014

Secretary of the Senate

Passed the Assembly June 30, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Title 1.81.27 (commencing with Section 1798.91.1) to Part 4 of Division 3 of the Civil Code, relating to personal data.

LEGISLATIVE COUNSEL'S DIGEST

SB 1027, Hill. Booking photographs: commercial use.

The California Public Records Act requires public records to be open to inspection at all times during the office hours of the state or local agency that retains those records, and provides that every person has a right to inspect any public record, except as provided.

Existing law requires a business to take reasonable steps to protect unintended disclosure of customer information and limits the way personal information on customers can be used and disseminated.

This bill would prohibit a person, as defined, who publishes a booking photograph, as defined, via print or electronic means from soliciting, requiring, or accepting a fee or other consideration from a subject individual, as defined, to remove, correct, modify, or to refrain from publishing or otherwise disseminating that photograph, as specified. The bill would authorize a subject individual who is aggrieved by a violation of these provisions to bring a civil suit to recover the greater of actual damages or a \$1,000 penalty for each violation, as specified.

The people of the State of California do enact as follows:

SECTION 1. Title 1.81.27 (commencing with Section 1798.91.1) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.27. COMMERCIAL USE OF BOOKING
PHOTOGRAPHS

1798.91.1. (a) For the purposes of this section, the following definitions shall apply:

(1) “Booking photograph” means a photograph of a subject individual taken pursuant to an arrest or other involvement in the criminal justice system.

(2) “Subject individual” means an individual who was arrested.

(3) “Person” means a natural person, partnership, joint venture, corporation, limited liability company, or other entity.

(4) “Public entity” means the state, county, city, special district, or other political subdivision therein.

(b) It shall be unlawful practice for any person engaged in publishing or otherwise disseminating a booking photograph through a print or electronic medium to solicit, require, or accept the payment of a fee or other consideration from a subject individual to remove, correct, modify, or to refrain from publishing or otherwise disseminating that booking photograph.

(c) Notwithstanding subdivision (b), a public entity may require and accept a reasonable administrative fee to correct a booking photograph.

(d) Each payment solicited or accepted in violation of these provisions constitutes a separate violation.

(e) In addition to any other sanctions, penalties, or remedies provided by law, a subject individual may bring a civil action in any court of competent jurisdiction against any person in violation of this section for damages in an amount equal to the greater of one thousand dollars (\$1,000) per violation or the actual damages suffered by him or her as a result, along with costs, reasonable attorney’s fees, and any other legal or equitable relief.

(f) The jurisdiction of a civil action brought pursuant to subdivision (e) shall also include the county in which the subject individual resides at the time of the violation of this section.

Approved _____, 2014

Governor